

REMARKS**Overview**

Claims 1-7, 10-17, and 32-35 are pending in this application. Claims 30 and 31 have been canceled with these limitations incorporated into claims 1 and 10, respectively.

Allowable Subject Matter

The Examiner has indicated that claim 15 would be allowable if rewritten in independent form. Therefore, claim 15 has been rewritten in independent form to take the form of previous claim 10, but with the term "physiological pressure" replaced with --bowel sound--. Therefore, it is respectfully submitted that the Examiner should find claim 15 allowable.

Issues Under 35 U.S.C. § 102

Claims 1-4, 7, 10-14, 16, 17 and 35 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U. S. Patent No. 6,341,229 to Akiva. Independent claim 1 has been amended to incorporate the limitation from now canceled claim 30, therefore it is respectfully submitted that this rejection is moot because claim 30 was not rejected on this basis. It is also respectfully submitted that the rejections to claims 2-4, 7 and 35 are also moot.

Claim 10 has been amended to include the limitations from previous claim 31, therefore it is respectfully submitted that this rejection to claim 10 is moot. As claims 11-14, 16, and 17 depend from claim 10, it is also respectfully submitted that these rejections are moot in light of the amendment.

Claims 1-3, 5, 7, 10-12, 16, 17 and 35 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U. S. Patent No. 5,351,694 to Davis. As claim 1 has been amended to include the limitations found in previous claim 30 and as claim 10 has been amended to include

the limitation found in previous claim 31, it is respectfully submitted that all of these rejections are moot and should be withdrawn.

Claim 32 has been rejected under 35 U.S.C. § 102(b) as being clearly anticipated by U. S. Patent No. 5,437,775 to Callahan et al. Callahan discloses a modular auscultation sensor and telemetry system (Abstract). There are a number of fundamental differences between the device of Callahan and Applicant's invention described in claim 32. First, it is noted that Callahan distinguishes between a user of the device of Callahan and a patient. In Callahan, a transducer 32 is placed against a patient's body and is conducted through a conduit to a pack 36 or container that may be worn around the waist of a user (col. 4, lines 41-63; Figure 2). This is a significantly different structure than what is described in claim 32. In claim 32, it is clear that the pressure transducer is now required to be "integral with" the housing and that the transmitter is "disposed" within the housing. Also, the memory is "disposed within the housing." It is further noted that the claim calls for the housing being "adapted to be placed on the patient." These limitations define a structure different from that disclosed by Callahan. In Callahan, a user 30 (as opposed to a patient) uses the device and instead of the pressure transducer and, transmitter, and memory being integral with the housing, the transducer is separate from the housing, accessible through the telemetry conduit 34. For example, in Figure 10, a waist pack 36 includes a microprocessor 154 and memory 160. The waist pack 36 does not have a pressure transducer "integral with" it. Instead, in Callahan, modular parts, instead of an integral device, is used. Therefore, it is respectfully submitted that this rejection to claim 32 should be withdrawn, as claim 32 requires different structure for its different intended use, and such structure is positively recited in the claim.

Issues Under 35 U.S.C. § 103

Claims 1-7 and 35 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Pfohl et al in view of Thorton. Claim 1 has been amended to incorporate the limitations from now cancelled claim 30. In addition, it is expressly stated in claim 1 that a memory is "disposed within the housing."

Therefore, it is respectfully submitted that this rejection to claim 1 should be withdrawn. As claims 2-7 and 35 depend from claim 1, it is respectfully submitted that these rejections should also be withdrawn.

Claims 5 and 6 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Akiva in view of Perin et al. As claims 5 and 6 depend from claim 1, it is respectfully submitted that these rejections should be withdrawn.

Claims 30, 31, 33, and 34 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Akiva in view of Callahan et al. Claims 30 and 31 have been canceled thereby mooted these rejections. As claims 33 and 34 depends from claim 1, it is also respectfully submitted that these rejections should be withdrawn. In addition, the invention of amended claims 1 and 10 is patentably distinguishable over the combination of Akiva and Callahan et al. Akiva is directed towards a wearable multifunctional examination apron (Abstract). As the Examiner understands, Akiva does not teach the memory (Office Action, p. 4, last full paragraph). Callahan similarly does not teach a memory as a part of an integral device that is used on a patient (See e. g. Figure 2 and Figure 10). In Callahan, the device that includes the memory is associated with the user (presumably a health care professional) as opposed to the patient. In Akiva information is not stored but transmitted via IR (away from the patient). Thus, in neither reference is information stored in a memory within a device placed on a patient. The

Examiner has previously noted in a different rejection that "intended use" is not a basis for distinguishing references. Therefore, claim 1 includes language regarding structure that provides that the memory is "disposed within the housing." Similarly, in claim 10, the display is "integrated into a housing" and the memory is "disposed within the housing." Therefore, it is respectfully submitted that in addition to the different intended use, these are positively recited structural differences between claims 1 and 10 that are not disclosed in neither Callahan nor Akiva.

In addition, Claim 30 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Pfohl in view of Thorton et al as applied to claims 1-17 and 35 above, and further in view of Goldenberg WO 98/34530. The Examiner has recognized that the transducer and housing are not adapted to be placed on the patient, but has indicated that an intended use is not sufficient basis to distinguish (Office Action, page 5, last paragraph). The Applicant submits that by adding language that the display is "integrated into the housing" and by having the memory "disposed within the housing", additional structural limitations are recited that further distinguish what is now claim 30 from Pfohl and Thorton.

Claims 32-34 have been rejected under 35 U.S.C. § 103(a) as being anticipated by Pfohl in view of Goldenberg WO 98/34530. Claim 32 has been amended to indicate that the pressure transducer is "integral with" the housing, and that the transmitter is "disposed within the housing" to recite positive structural limitations in addition to the difference in intended uses.

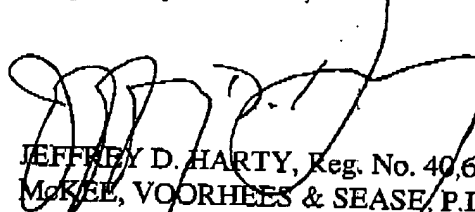
Therefore, it is respectfully submitted that all claims are in proper form for immediate allowance.

Conclusion

No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,



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